

MEDIA RELEASE

Partner countries ask Security Council to establish an MH17 tribunal

The countries undertaking the independent criminal investigation into the downing of Malaysia Airlines flight MH17 have asked the UN Security Council to establish an international criminal tribunal to try those responsible for crimes connected to the downing that occurred over Ukraine on 17 July 2014 and took 298 lives.

Australia, Belgium, Malaysia, the Netherlands and Ukraine consider an independent international criminal tribunal established by the Council, reflecting the highest international standards, would be the best means of ensuring justice for the victims and their loved ones. It would also be an appropriate response to the fact that the incident and the related implications for the safety of civil aviation affect the interests of the international community as a whole. The five countries are working to secure the support of Security Council Members for the tribunal.

In the immediate aftermath of the MH17 disaster, the Security Council adopted Resolution 2166, which demanded that those responsible for the incident be held to account and that all States cooperate fully with efforts to establish accountability.

The establishment of an international criminal tribunal under Chapter VII of the UN Charter for this purpose would send a clear message that the international community will not tolerate acts that threaten international peace and security by endangering civil aviation. A tribunal established by the Council would ensure broad international support for prosecutions and would maximise the prospects of securing international cooperation, which will be necessary for an effective prosecution.

Australia, Belgium, Malaysia, the Netherlands and Ukraine call upon members of the Security Council to support this proposal to ensure that those responsible are held to account and to deter those who would threaten civil aviation.

Common Talking Points

- . The countries conducting the independent criminal investigation into the downing of MH17 are committed to working with the international community to secure justice for the families of the victims.
- . We are discussing with UN Security Council Members the proposed establishment of an international criminal tribunal to prosecute those responsible for the downing of MH17.
- . An international criminal tribunal established by the Security Council would send the clearest possible message to those who threaten international peace and security by endangering civil aviation.
 - It would be an appropriate response to the fact that the incident and the related implications for the safety of civil aviation affect the interests of the international community as a whole.
 - It would also be the most effective mechanism under international law for delivering justice for the families of all victims from all affected States
 - And would maximise the prospects of international cooperation, which will be necessary for an effective prosecution.
- . Given discussions are underway, it would not be appropriate to go into details at this time.
- . The countries conducting the independent criminal investigation into the downing of MH17 are firmly committed to ensuring that those responsible for the downing of MH17 are held to account, as was called for unanimously by the Security Council in Resolution 2166.

If asked why a tribunal needs to be established now

- . The States cooperating in the Joint Investigation Team consider that establishing a tribunal prior to the completion of the criminal investigation would ensure that the tribunal is as depoliticised as possible.
- . Justice delayed is justice denied
 - We need to act now to ensure those responsible are prosecuted at the earliest possible date.
- . This approach is consistent with international practice
 - All other ad hoc criminal courts and tribunals were established prior to the completion of criminal investigations.

If asked about likelihood of adoption etc

- . Given discussions underway, it would not be appropriate to go into further detail at this stage.

If asked specifically about the Russian reaction

. The law enforcement authorities of Australia, Belgium, Malaysia, the Netherlands and Ukraine, cooperating in a Joint Investigation Team, have been assisted in the investigation by other States including the Russian Federation.

. We are aware of Russian concerns

- The States cooperating in the Joint Investigation Team are ready to engage further with Russia to discuss these concerns.

. Given discussions are underway, it would not be appropriate to go into further detail at this stage.